

HOUSE BILL 971

E4

11r2236

By: **Delegates Parrott, Hough, McComas, and Smigiel**

Introduced and read first time: February 11, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Prohibition on Abandoned Refrigerators – Civil Offense**

3 FOR the purpose of establishing that it is a civil offense instead of a criminal offense
4 for a person to place an abandoned refrigerator, icebox, or freezer cabinet
5 outside a building or dwelling in a place accessible to children, uncrated, and
6 not capable of being opened from the inside; repealing certain criminal
7 penalties; establishing a certain penalty for a violation of this Act; establishing
8 that an adjudication under this Act is not a criminal conviction for any purpose
9 and does not impose any civil disability that may result from a criminal
10 conviction; authorizing a police officer to issue a citation for an alleged violation
11 of this Act; requiring the police officer to sign the citation; establishing the
12 contents of the citation; requiring the District Court to establish the form for the
13 citation; requiring the District Court to establish a schedule for prepayment of a
14 certain fine; requiring the law enforcement agency of the police officer who
15 issued the citation to forward to the District Court a copy of the citation and
16 request for trial; requiring the District Court to schedule the case for trial and
17 summon the defendant to appear; providing the procedural requirements for a
18 certain trial; establishing the rights of the defendant in a certain trial;
19 authorizing the court to place the defendant on probation in a certain manner;
20 authorizing the court to suspend the fine or defer the fine under certain
21 circumstances; establishing that failure to pay the fine may be treated as
22 criminal contempt; authorizing the defendant to file certain post-trial motions;
23 establishing the authority of the State's Attorney in prosecuting a violation
24 under this Act; and generally relating to the offense of abandoning a
25 refrigerator.

26 BY repealing and reenacting, with amendments,
27 Article – Criminal Law
28 Section 10–109
29 Annotated Code of Maryland
30 (2002 Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Criminal Law**

4 10–109.

5 (a) A person may not place or allow to be placed outside of a building or
6 dwelling an abandoned or discarded refrigerator, icebox, or freezer cabinet that:

7 (1) is in a place accessible to children;

8 (2) is uncrated; and

9 (3) has a door or a lock that cannot be released for opening from the
10 inside.

11 [(b) A person who violates this section is guilty of a misdemeanor and on
12 conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding
13 \$100 or both]

14 **(B) (1) A VIOLATION OF THIS SECTION IS A CIVIL OFFENSE.**

15 **(2) IF A PERSON IS FOUND TO HAVE COMMITTED A VIOLATION OF**
16 **THIS SECTION, THE PERSON IS SUBJECT TO A FINE NOT EXCEEDING \$5,000.**

17 **(3) ADJUDICATION OF A VIOLATION UNDER THIS SECTION:**

18 **(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE;**
19 **AND**

20 **(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES**
21 **THAT MAY RESULT FROM A CRIMINAL CONVICTION.**

22 **(C) (1) A POLICE OFFICER MAY ISSUE A CITATION TO A PERSON WHO**
23 **THE OFFICER HAS PROBABLE CAUSE TO BELIEVE HAS COMMITTED A VIOLATION**
24 **UNDER THIS SECTION.**

25 **(2) A CITATION ISSUED UNDER THIS SECTION SHALL BE SIGNED**
26 **BY THE POLICE OFFICER AND SHALL CONTAIN:**

27 **(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;**

28 **(II) THE STATUTE ALLEGEDLY VIOLATED;**

1 (III) THE DATE, LOCATION, AND TIME THAT THE VIOLATION
2 OCCURRED;

3 (IV) THE FINE THAT MAY BE IMPOSED;

4 (V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS
5 ALLOWED; AND

6 (VI) A NOTICE THAT STATES THAT THE DISTRICT COURT
7 SHALL PROMPTLY SEND THE PERSON A SUMMONS TO APPEAR FOR TRIAL.

8 (3) THE FORM OF THE CITATION SHALL BE UNIFORM
9 THROUGHOUT THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT
10 COURT.

11 (D) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ESTABLISH A
12 SCHEDULE FOR THE PREPAYMENT OF A FINE.

13 (E) (1) THE LAW ENFORCEMENT AGENCY OF THE POLICE OFFICER
14 WHO ISSUED THE CITATION SHALL FORWARD TO THE DISTRICT COURT HAVING
15 VENUE A COPY OF THE CITATION AND A REQUEST FOR TRIAL.

16 (2) THE DISTRICT COURT SHALL PROMPTLY SCHEDULE THE
17 CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

18 (F) IN A PROCEEDING FOR A VIOLATION UNDER THIS SECTION:

19 (1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE
20 DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF A
21 CRIMINAL CASE;

22 (2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS
23 PRESCRIBED BY LAW FOR THE TRIAL OF A CRIMINAL CASE;

24 (3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS
25 RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE
26 DEFENDANT UNDERSTANDS THOSE CHARGES;

27 (4) THE DEFENDANT IS ENTITLED TO:

28 (I) CROSS-EXAMINE EACH WITNESS WHO APPEARS
29 AGAINST THE DEFENDANT;

1 **(II) PRODUCE EVIDENCE AND WITNESSES ON THE**
2 **DEFENDANT'S OWN BEHALF;**

3 **(III) TESTIFY ON THE DEFENDANT'S OWN BEHALF IF THE**
4 **DEFENDANT CHOOSES TO DO SO; AND**

5 **(IV) BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S**
6 **OWN SELECTION AND EXPENSE;**

7 **(5) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT**
8 **GUILTY;**

9 **(6) THE VERDICT SHALL BE:**

10 **(I) GUILTY OF A CIVIL VIOLATION; OR**

11 **(II) NOT GUILTY OF A CIVIL VIOLATION; AND**

12 **(7) BEFORE ENTERING A JUDGMENT, A COURT MAY PLACE THE**
13 **DEFENDANT ON PROBATION IN THE SAME MANNER AND TO THE SAME EXTENT**
14 **AS IS PERMITTED BY LAW IN A CRIMINAL CASE.**

15 **(G) IF A DEFENDANT IS FOUND GUILTY OF A VIOLATION UNDER THIS**
16 **SECTION AND A FINE IS IMPOSED, A COURT MAY DIRECT THAT THE PAYMENT OF**
17 **THE FINE BE SUSPENDED OR DEFERRED UNDER CONDITIONS DETERMINED BY**
18 **THE COURT.**

19 **(H) A DEFENDANT'S WILLFUL FAILURE TO PAY A FINE IMPOSED UNDER**
20 **THIS SECTION MAY BE TREATED AS CRIMINAL CONTEMPT PUNISHABLE AS**
21 **PROVIDED BY LAW.**

22 **(I) A DEFENDANT WHO IS FOUND GUILTY OF A VIOLATION UNDER THIS**
23 **SECTION, AS PROVIDED BY LAW FOR A CRIMINAL CASE, MAY FILE:**

24 **(1) AN APPEAL;**

25 **(2) A MOTION FOR A NEW TRIAL; OR**

26 **(3) A MOTION FOR A REVISION OF A JUDGMENT.**

27 **(J) THE STATE'S ATTORNEY FOR EACH COUNTY MAY:**

28 **(1) PROSECUTE A VIOLATION UNDER THIS SECTION IN THE SAME**
29 **MANNER AS A PROSECUTION OF A CRIMINAL CASE, INCLUDING ENTERING A**

1 NOLLE PROSEQUI OR PLACING THE CASE ON VIOLATION ON A STET DOCKET;
2 AND

3 (2) EXERCISE AUTHORITY IN THE SAME MANNER PRESCRIBED BY
4 LAW FOR A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2011.